

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

BRITISH TELECOMMUNICATIONS PLC	)	
and BT AMERICAS, INC.,	)	
	)	
Plaintiffs,	)	
	)	C.A. No. 22-01538-CJB
v.	)	
	)	<b>JURY TRIAL DEMANDED</b>
PALO ALTO NETWORKS, INC.,	)	
	)	
Defendant.	)	

**JOINT LETTER PURSUANT TO ORAL ORDER (D.I. 41)**

Pursuant to the Court’s Oral Order (D.I. 41) and June 15, 2023 Docket Entry, Plaintiffs British Telecommunications plc and BT Americas, Inc. (collectively, “BT”) and Defendant Palo Alto Networks, Inc. (“PAN”) submit this Joint Letter in advance of the Court’s Scheduling Conference.

**Description of the Case**

BT filed this action against PAN on November 28, 2022, alleging willful infringement of U.S. Patent Nos. 7,159,237 and 7,895,641 (the “Asserted Patents”). D.I. 1.

The Asserted Patents are titled “Methods and systems for dynamic network intrusion monitoring, detection and response.” BT has accused various products and services that PAN offers as part of its “Strata” network security platform (including, for example, PAN’s security appliances, the WildFire service, PAN’s Cortex platform, and Unit 42).

In lieu of answering, PAN moved to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure, contending that the Asserted Patents do not claim patentable subject matter under 35 U.S.C. § 101. D.I. 11. PAN also concurrently moved to transfer the case to the Northern District of California pursuant to 28 U.S.C. § 1404(a). BT opposed both motions, which were fully briefed. The motion to transfer was denied on June 15, 2023. D.I. 40. The hearing on the motion to dismiss is scheduled for July 14, 2023. D.I. 37.

**Parties’ Position Regarding Disputes in the Proposed Scheduling Order**

The parties did not reach agreement on the proposed case schedule. In the Proposed Scheduling Order submitted with this letter, the parties have the following primary disputes:

- BT proposes a deadline to produce prior license/settlement agreements within 90 days after entry of the protective order as those licenses/settlement agreements have

confidentiality provisions which require the consent of the licensees. PAN proposes a deadline of within 60 days after entry of the protective order.

- BT proposes to have 6(b)-(e) disclosures completed by December 7, 2023. PAN proposes to have 6(b)-(e) disclosures completed by January 26, 2024.
- BT proposes for parties to submit joint claim construction charts by January 15, 2024 and joint claim construction briefs by April 19, 2024. PAN proposes for parties to submit joint claim construction charts by March 11, 2024 and joint claim construction briefs by June 14, 2024.
- BT proposes to have document production substantially completed by May 17, 2024 and close of fact discovery by September 17, 2024. PAN proposes to have document production substantially completed by July 15, 2024 and close of fact discovery by January 17, 2025.
- BT proposes a deadline to object to expert testimony by January 6, 2025. PAN proposes a deadline to object to expert testimony by June 5, 2025.
- BT proposes a pretrial conference date of April 18, 2025, with trial starting May 2, 2025. PAN proposes a pretrial conference date of October 6, 2025, with trial in November 2025.
- PAN proposes limiting initial infringement charts to 20 claims and final infringement contentions to 10. PAN also proposes limiting initial prior art combinations to 5 per claim down to 3 per claim for final invalidity contentions. BT believes setting any limits at this stage is still premature.

The parties also did not reach agreement on the three topics (other than Scheduling Order disputes) identified below.

### **Three Most Significant Topics Discussed During the Parties Review Of The Checklist Items**

#### **Item 1: Production of core technical documents**

The parties discussed the nature of the core technical documents that relate to the functionality of the Accused Products.

BT's Position: As in a prior action in this District involving the Asserted Patents, *British Telecommunications plc et al v. Fortinet, Inc.*, 1:18-cv-01018 ("Fortinet Litigation"), BT believes the core technical documents include the source-code of the accused products.

PAN's Position: PAN believes that production of core technical documents sufficient to show how the accused products work does not require production of source code because there are technical documents that sufficiently describe the relevant functionality of the Accused Products. PAN would consider, however, producing source code regarding specific aspects of the Accused Products if BT makes a narrowly tailored request after reviewing PAN's core technical documents.

## Item 2: Manner of Source Code Production

BT's Position: As in the Fortinet litigation, BT seeks to have the source code made available remotely (under the terms of an applicable protective order). BT intends to reciprocate by making its own source code available remotely.

PAN's Position: To the extent source code is produced, PAN opposes remote access to its source code, and will make the source code available for inspection at outside counsel's office in Redwood Shores, CA.

## Item 3: Motion to Stay

PAN's Position: PAN filed IPRs on April 28, 2023 challenging all claims of both of the Asserted Patents and intends to move to stay if the IPRs are instituted. The institution decisions are due October 28, 2023.

BT's Position: BT would oppose any motion for stay.

POTTER ANDERSON & CORROON LLP

FARNAN LLP

By: /s/ Philip A. Rovner

Philip A. Rovner (#3215)  
Jonathan A. Choa (#5319)  
Hercules Plaza  
P.O. Box 951  
Wilmington, DE 19899  
(302) 984-6000  
provner@potteranderson.com  
jchoa@potteranderson.com

Bart H. Williams  
PROSKAUER ROSE LLP  
2029 Century Park East  
Suite 2400  
Los Angeles, California 90067  
310-557-2900  
bwilliams@proskauer.com

Baldassare Vinti  
Nolan M. Goldberg  
PROSKAUER ROSE LLP  
Eleven Times Square  
New York, New York 10036  
212-969-3000  
bvinti@proskauer.com  
ngoldberg@proskauer.com

By: /s/ Brian E. Farnan

Brian E. Farnan (Bar No. 4089)  
Michael J. Farnan (Bar No. 5165)  
919 N. Market St., 12th Floor  
Wilmington, DE 19801  
(302) 777-0300  
(302) 777-0301 (Fax)  
bfarnan@farnanlaw.com  
mfarnan@farnanlaw.com

Adrian C. Percer (*admitted pro hac vice*)  
Gregg T. Stephenson (*admitted pro hac vice*)  
Weil, Gotshal & Manges LLP  
201 Redwood Shores Parkway  
Redwood Shores, CA 94065  
Telephone: (650) 802-3000  
adrian.percer@weil.com  
gregg.stephenson@weil.com

Anish R. Desai (*admitted pro hac vice*)  
Tom Yu (*admitted pro hac vice*)  
Weil, Gotshal & Manges LLP  
767 Fifth Avenue  
New York, NY 10153  
Telephone: (212) 310-8000  
anish.desai@weil.com  
tom.yu@weil.com

Edward Wang  
PROSKAUER ROSE LLP  
1001 Pennsylvania Avenue NW  
Suite 600  
Washington, DC 20004  
202-416-6800  
ewang@proskauer.com

*Attorneys for Plaintiff British  
Telecommunications plc and  
BT Americas, Inc.*

Priyata Y. Patel (*admitted pro hac vice*)  
Weil, Gotshal & Manges LLP  
2001 M Street, NW Suite #600  
Washington, D.C. 20036  
Telephone: (202) 682-7000  
priyata.patel@weil.com

*Attorneys for Defendant*

Dated: June 29, 2023  
10897589